THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
PRESTON NIBLACK, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO 26-A

COMMITTEE: Finance

TITLE: To amend the administrative code of the city of New York, in relation to the sale of tax liens.

SPONSORS: Vann, Comrie, Brewer, James, Mark-Viverito, Arroyo, Williams, Gennaro, Ferreras, Lander, Dickens, Dilan, Gentile, Jackson, Greenfield, Barron, Sanders Jr., Rivera, Levin, Foster, Seabrook, Rose, Eugene, Koslowitz, Chin, Gonzalez, Nelson, Reyna, Rodriguez, Van Bramer, Mealy, Mendez, Ulrich and Koo

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SUMMARY OF LEGISLATION: This legislation would amend Local Law 68 of 2007 by reauthorizing the City's ability to sell tax and stand-alone water liens and adds provisions to include other stand-alone municipal charges, Housing Development Fund Corporations (HDFCs) that provide rental housing, and homeowner protections in the lien sale process.

<u>Current Law</u>
Currently, owners of Class One homes (1-, 2- and 3-family homes) and owners of Class Two co-ops and condos must be three years in arrears on property tax to be included in property tax lien sales. Owners of Class One single-family homes are exempt from water and sewer-only lien sales; owners of Class One two- and three-family homes and owners of Class Two co-ops and condos must be at least one (1) year in arrears and $1,000 or more to be included in water and sewer-only lien sales. Owners who are currently exempt from the property tax lien sale include: Class One residential property owners are excluded if receiving a qualifying exemption (Senior Citizens Homeowner Exemption, Disabled Homeowner Exemption, Circuit Breaker); Owners that are exempt from water and sewer lien sale include: all single family homes and 2- and 3-family homes receiving a qualifying exemption. All HDFC buildings are also exempt from lien sales.

This Legislation would maintain the current provisions for real property tax liens. Water and sewer lien sales would continue to exclude single family homes and exclude 2- and 3-family homes if they are receiving a qualifying exemption. The threshold to be included in the tax lien sale would increase for water and sewer liens to 1 year and $2,000 for 2- and 3-family homes, while all other properties would remain at the threshold of 1 year and $1,000. In addition, certain properties receiving an enhanced Veterans Exemption would be excluded from future property tax and water and sewer lien sales, and the legislation would codify the current practice of excluding properties owned by active-duty military personnel.

<u>Stand Alone Charges</u>
This legislation would also authorize the sale of liens placed by the Department of Housing Preservation and Development for Emergency Repair Program (ERP) charges accrued since January 1, 2006 and Alternative Enforcement Program (AEP) expenses and fees when such liens are at least 1 year old and total at least $1,000 Residential Class One properties with the exception of non-owner occupied 3-family homes that are in the AEP program would be excluded.

<u>Housing Development Fund Corporations (HDFCs)</u>

This legislation would allow the inclusion of HDFC rental buildings in lien sales beginning January 1, 2012, with a threshold of 2 years and $5,000. The legislation requires the Commissioner of Housing Preservation Development (HPD) to notify building owners of the Finance commissioner's authority to sell such liens by May 1, 2011. HDFC co-ops or condos would continue to be excluded from lien sales.

Notification Provisions

This legislation codifies the current practice of first-class mail notification to property owners at 90, 60, and 30 days prior to the lien sale date, and adds a 10 day mailing, in addition to the publication at 90 and 10 days before lien sale. In addition, bi-annual (October and January) statements and all lien sale notifications are to include: 1) qualifying exemption information, 2) payment plan availability, 3) ombudsperson contact information, 4) a lien sale process description. Statements and notices must be in Chinese, English, Korean, Russian, or Spanish if requested by owner, or if DOF has reason to believe that is the property owners' primary language. Post-sale notifications are to include contact information for the DEP and DOF ombudsperson.

Eligibility Determination

This legislation would require the City to provide an exemption eligibility checklist to help make homeowners aware of qualifying exemptions that would exclude them from the lien sale. The checklist would be included in any mailing to a delinquent taxpayer, and with all notices to homeowners whose properties have been included in a lien sale notification list. Upon receipt of an eligibility checklist, or other communication indicating possible exemption eligibility of a property owner, DOF must follow prescribed steps to provide the homeowner with application forms for the appropriate exemption. DOF is to provide a list to the Council of property owners who returned an exemption eligibility checklist but not a completed application 30 days prior to the lien sale, and again 30 days after the lien sale. Property owners who have communicated to DOF their possible eligibility prior to the lien sale have 90 days from the lien sale date to submit an exemption application.

Payment Plan

Under current law there are no provisions for payment plans, which are established at the discretion of the Finance and DEP commisioners. The legislation would establish a standard plan for all lien types with no down payment requirement and a minimum 8-year and maximum 10-year repayment period, unless the property owner specifies otherwise. Defaults on a payment plan would bar future payment plan for 5 years, unless the default is cured before lien sale, or the homeowner is able to demonstrate extenuating circumstances, to be defined by rule.

Lien Servicers

This legislation would make the interest rate servicers charge after a lien is sold correspond to Banking Commission rates for delinquent property taxes, adopted annually, and currently 9 percent for properties with assessed value up to $250,000 and 18 percent for properties over $250,000 in assessed value. This legislation would also require an itemization of taxes, interest, and fees on servicer bills and make all fees reasonable and bona fide. The servicer also must include language in all communications regarding: 1) availability of forbearance agreement, 2) explanation of the role of the lien servicer, and 3) servicer and City ombudsperson contact information.

Dispute Process and Monthly Billing

This legislation would require that DOF, DEP, and HPD promulgate by rule a description of their existing processes for disputing the validity of any taxes or charges that are subject to the lien sale. For DOF the dispute status and estimated time of resolving the dispute will be placed on the tax bill. For DEP the dispute status and estimated time of resolution will be accessible in the customer's secure on-line account. In addition, the legislation would mandate that beginning on January 1, 2012 individuals who have entered into a payment plan for delinquent water and sewer charges who have AMR (automated meter reading) will receive a single consolidated bill from DEP for both current and delinquent charges.

Reporting

HPD must provide to the Council within 30 days of when a lien is sold a description of the criteria used to remove properties from the lien sale list at the commissioner's discretion. HPD must also provide the Council with a list whenever liens sold on HDFC rental properties or for ERP and AEP liens result in a foreclosure, a transfer of title, or a new owner of record after the initial lien sale notification

Expiration

The bill expires December 31, 2014.

EFFECTIVE DATE: The bill would take effect immediately

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2011

FISCAL IMPACT STATEMENT:

	Effective FY11	FY Succeeding Effective FY12	Full Fiscal Impact FY13
Revenues (+)	**$15.5 million**	**$7.5 million**	**($0.5 million)**
Expenditures (-)	**$0.5 million**	**$0.5 million**	**$0.5 million**
Net	**$15 million**	**$7 million**	**($1 million)**

IMPACT ON REVENUES:

The direct revenue from lien sale as structured under the 2007 legislation averages about $40 million annually, according to OMB. In addition, the lien sale also acts as an incentive to encourage timely payment of City bills, particularly the property tax and water bills, as property owners who do not pay are eventually threatened with possible foreclosure of their property. This has been instrumental in bringing the Property Tax delinquency rate down from 4.8 percent in FY96 to 1.75 percent in FY09. Since OMB continues to carry these revenues in its most recent financial plans, this fiscal impact statement assumes these revenues as baseline and only tracks changes from those baselines.

There are several provisions in Intro 26-A that would have an impact on City revenues. The addition of ERP liens as a stand-alone charge is projected to raise City revenue by $21 million in the initial year (FY11). This amount represents much of the outstanding debt that has accumulated over the past five years from this program that will now be collected. Subsequent years will see revenue from this provision level out at about $3 million annually. This represents enhanced collections of newly accrued ERP charges as a result of their inclusion in lien sales.

Similarly, the inclusion of HDFC rentals in the lien sale will result in additional revenue of $10 million in its initial year of implementation (FY12) as old debt is cleaned out, followed in subsequent years by an expected $2 million annual increase in collections from HDFC rental buildings.

These revenue increases will be slightly offset by revenue decrease from two provisions. The first is the exemption for certain veterans, resulting in about $1 million less in revenue annually. Additionally, keeping the interest rate paid by properties with assessed values of $250,000 or less at 9 percent post lien sale will reduce revenues by an estimated $4.5 million. This represents the lower expected value of bonds backed by sold liens, since purchasers of liens will anticipate a lower income stream compared to the uniform 18 percent interest rate on all properties under current law.

The payment plan is expected to be revenue neutral. While the lower down payment required will reduce initial income, it is expected that this will be offset by fewer payment plan defaults.

It should be noted that the expansion of the monetary threshold for 2 and 3 family properties to be eligible for a stand-alone water lien will NOT have a fiscal impact on the City's budget. This is because water and sewer bills are paid to the New York City Water Board, which is the independent body that runs the water system. The City registers revenue from the Water Board as a reimbursement for the expense of services the City provides. This impact is expected to be less than $2 million in just the current fiscal year (FY11) on the Water Board's budget.

IMPACT ON EXPENDITURES:
The legislation is expected to incur a small cost on the expense side due to the increased notification and outreach provisions. These costs represent printing, postage costs and increased staffing and total about $500,000 annually. All other provisions in the bill would have no impact as they make use of existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Funds

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Office of Management and Budget
Department of Environmental Protection
Department Finance
Department of Housing Preservation and Development

ESTIMATE PREPARED BY: Emre Edev, Senior Legislative Financial Analyst
Anthony Brito, Senior Legislative Financial Analyst
Kate Seely-Kirk, Senior Legislative Financial Analyst
Raymond Majewski, Deputy Director/Chief Economist
Latonia Mckinney, Deputy Director
Andrew Grossman, Deputy Director

HISTORY: Introduced by the City Council and referred to the Finance Committee as Intro. 26 on February 3, 2010. On May 6, 2010 an amended version, Proposed Intro. 26-A, was considered by the Committee on Community Development and the Finance Committee on the bill and the bill was laid over. On February 18, 2010 a second amendment had been proposed and was considered by the Committee on Community Development and the Finance Committee and laid over. A third amendment has been proposed and the amended legislation, Proposed Intro. No. 26-A, is scheduled to be voted out of the Finance Committee on March 2, 2011 and by the Full Council on March 2, 2011.